

# **MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS**

**DECEMBER 3, 2008**

## **ROLL CALL**

12 Present, 0 absent

## **PRAYER**

Commissioner Fay led the commissioners in prayer.

## **APPROVAL OF THE MINUTES OF THE SPECIAL MEETINGS OF NOVEMBER 12 AND 13, 2008 AND THE REGULAR MEETING OF NOVEMBER 19, 2008**

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Minutes of the Special Meetings of November 12 and 13, 2008 and the Regular Meeting of November 19, 2008.

## **ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES**

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays that in accordance with the provisions of subsection 6 of Rule VI of the Rules of Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency condition exists which requires that the Council Rules be suspended to allow Communication No. 08-794 and Council Resolutions No. 08-98 and 08-99 to be added to the agenda of tonight's Regular Meeting of the Council. He moved for Suspension of the Rules.

## **PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA**

None

## **CHIEF EXECUTIVE'S REPORT**

Chief Executive Babb reported that the Natural Resource Damage Program is

moving forward with funding a full-time position in Butte. Hopefully right after the first of the year we will have a Project program Manager that will be stationed here in Butte to work on our restoration projects.

Also, he reminded everybody of the stroll Friday night. And also if you are interested in helping out with any of the ice sculptures or chipping in for the cost of that, please see Shelly Jones. We will have three blocks that we have purchased.

## **SECTION I**

### **PUBLIC HEARING**

A PETITION TO CLOSE AND VACATE A PORTION OF UNDEVELOPED EAST GALENA STREET AND ALLEY WITHIN LOTS ON THE YELLOW JACK LODGE, BLOCK 3 AND A PORTION OF OHIO AVENUE IN THE KINGS ADDITION #2, BLOCK 7. (Petition No. 08-13 being held in the Public Works Committee) **Proof of publication was noted and placed on file.**

John Harrington, Building Official, gave the staff report and said there were no adverse reports and they recommend approval.

Chief Executive Babb opened the public hearing at 7:31PM and called for any proponents. On the third and final call there being none, he then called for any opponents. Again, there was no response so he closed the public hearing at 7:32 PM.

## **SECTION II**

### **CONSENT AGENDA**

- A.
  - 1. COMMITTEE OF THE WHOLE MEETING REPORT
  - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
  - 3. JUDICIARY COMMITTEE MEETING REPORT
  - 4. PUBLIC WORKS COMMITTEE MEETING REPORT

### **B. COMMUNICATIONS**

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any “friendly amendments” or segregations. Commissioner Moodry called for segregation of Communication No. 08-537 on page 14 of the Public Works Committee Meeting Report.

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee to approve of the Consent Agenda, Section A, Items 1 through 4 and Section B, items 1 through 18 with the exception of the item segregated The motion passed with a unanimous verbal vote.**

#### **Segregation**

Communication No. 08-537, Robert A. Macioroski, Director Land Records, regarding a request for power line easement from Northwestern Energy.

Commissioner Moodry moved that the recommendation be changed to cross-reference with Resolution No. 08-82 and place on file. Commissioner O'Leary seconded the motion and passed with a unanimous verbal vote.

### **SECTION III                    COMMUNICATIONS TO BE READ AND ACTED UPON**

1. 08-790      Alex Philp, Rocky Mountain Supercomputing Center, Inc.  
                 requesting approval of funding request of \$380,000.00,

Commissioner O'Leary said he would make a motion and if it receives a second, it will be open to amendments, a substitute motion and a motion to end all motions. He also noted that Commissioner Lee also has a motion.

**Commissioner O'Leary then moved that the Council authorize the Chief Executive and his department heads to develop a loan package for Rocky Mountain Supercomputing Center, Inc. for up to \$380,000 from the Hard Rock Mining Economic Development Fund. The loan shall be dispensed over three years, the second and third years being dependent upon a complete resolution of the current difference of opinion between Butte-Silver Bow and Butte School District #1 with regard to other Hard Rock money. The loan shall be collateralized and subject to interest to the satisfaction of the County. Realistic deliverables shall be developed in concert with RMSC, Inc., the completion of which by the end of three years will result in the cancellation of not more than 20% of the loan repayment obligation. Any loan agreement developed by the Executive Branch shall be subject to final approval by the Council of Commissioners. Commissioner Coleman seconded the Motion. There was some discussion with other commissioners.**

Commissioner Lee moved for a substitute motion. **He moved that the Butte-Silver Bow Council of Commissioners approve a grant award in the amount of \$130,000.00 to the Rocky Mountain Supercomputing Center, Inc., a Montana-based private, nonprofit corporation dedicated to the successful implementation of a public-private collaborative "high performance computing network" for Montana. The money is to be allocated from the Hard Rock Mining Trust Fund. The "grant" shall be used to support RMSC operations of the supercomputing project based in Butte-Silver Bow County.**

**Realistic deliverables shall be developed in concert with RMSC, Inc. by the Chief Executive's staff by which the project can be evaluated following the initial funding during year one. A favorable evaluation report based upon established performance criteria by the Chief Executive's staff will trigger the mechanism for considering additional funding during years two and three in the amount of \$125,000.00 per year.**

**Funding of the project for years two and three will be contingent upon the settlement of a dispute between Butte-Silver Bow City-County and School District No. 1 respective to 1/3 of the Hard Rock monies in the Hard Rock Trust Account or upon the partnering between School District No. 1 and Butte-Silver Bow City-County for funding on this project.**

**Dependent upon a legal resolution to the settlement of the dispute or partnering between School District No. 1 and Butte-Silver Bow City-County, funding of the supercomputing project for years two and three shall be presented with the option of a grant or a loan per staff recommendation and subject to approval by the Council of Commissioners. Commissioner Frasz seconded the motion.**

**Commissioner Moodry moved that Commissioner Lee's motion include the amendment that the initial \$130,000.00 in year one be changed from a grant to a loan. Commissioner Fay seconded the motion. On the question Commissioner Foley asked Mr. O'Leary if the Council in his tenure has offered loans in this fashion. Mr. O'Leary answered that one that comes to mind is we loaned some money for the Three Bears for the road construction. Jeff Amerman, Finance and Budget Director said they do loans all the time mostly in the URA. Out of the Hard Rock the only loan that has ever been given out of that one is the Three Bears road and it is being paid back at 7% interest. A roll call vote of 7 yeas and 5 nays was then taken on the amendment. Voting Nay were Commissioners Sheehy, Frasz, Foley, Lee and Coleman.**

**On the question for the substitute motion, Commissioner O'Leary noted that the Substitute Motion has been amended to have a loan rather than a grant. The question remains are we comfortable with a collateral or uncollateral loan. Also what are the feelings about part of the loan being forgiven. Commissioner Lee said his substitute motion did not mention anything about cancellation of any part of the loan so an amendment to his motion should be done. Commissioner O'Leary then moved that the concept of canceling part of the loan as an incentive toward success be considered in the negotiations of this loan. Commissioner Frasz seconded the motion. Commissioner Coleman moved to include the option of a cancellation of not more than 20% of the loan repayment at the end of each of the years, starting with the first year. Commissioner O'Leary said to include that with his motion and with the concurrence with the second. A roll call vote was then taken with 9 yeas and 3 nays with Commissioners Foley, Granger and Sorich voting Nay. Now back to the substitute motion as amended Commissioner O'Leary asked Commissioner Lee about the first sentence of his motion that we are approving a grant award which is now a loan. Does he want it to come back to the Executive Branch for final approval. Mr. Lee concurred and said also**

**Now back to the substitute motion. A roll call vote of 10 yeas, and 2 nays was taken. Voting nay were Commissioners Foley and Sheehy.**

- Commissioner Coleman passed out ballots to each commissioner. The recommendation from the Butte-Silver Bow Democratic Party was to elect Edie McClafferty. The other names chosen were Charles Jeniker and Barbara Griffiths. He asked them to check their choice and sign at the bottom. There was 12 for Edie McClafferty. Commissioner Coleman moved that we draft a letter to the Secretary of State, Mr. Johnson, with our decision to replace Jim Keane for the remaining time period of December 4<sup>th</sup> to December 31st and place on file.

Requesting that Council authorize the County Attorney's office to investigate the disbursement of the Samie Keith Estate The Board requests that the County Attorney's office intervene in the estate in an effort to determine if the Court will set aside the finds for the care of animals at the Chelsea Bailey Animal Shelter.

## SECTION IV ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY

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## **SECTION V**

### **ORDINANCES AND RESOLUTIONS – FOR FINAL READING**

#### **1. COUNCIL BILL NO. 08-8 ORDINANCE NO. 08-8**

AN ORDINANCE AMENDING SUBSECTION 9.03 OF SECTION 4 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND CHAPTER 10.32 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “STOP SIGNS” AND SECTION 10.32.030(A) (b) (2), B-SB MC; PROVIDING FOR DESIGNATION OF BLACKTAIL LANE AS A THROUGH STREET FROM ITS INTERSECTION WITH RAMPART DRIVE ON THE NORTH TO ITS INTERSECTION WITH MOUNT HIGHLAND DRIVE ON THE SOUTH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas, and 0 nays to place Council Bill No. 08-8, Ordinance No. 08-8 on final reading and passed having been deemed fully read at length.**

#### **2. COUNCIL RESOLUTION NO. 08-95**

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE MONTANA DEPARTMENT OF COMMERCE TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND FOR THE PURPOSE OF A PLANNING GRANT TO BE USED FOR THE COMPLETION OF A PRELIMINARY ARCHITECTURAL REPORT FOR THE HOMEWARD BOUND FACILITY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 08-95 on final reading and passed having been deemed fully read at length.**

#### **3. COUNCIL RESOLUTION NO. 08-96**

A RESOLUTION APPROVING GROWTH POLICY AMENDMENT NO. 27 TO THE 1987 BUTTE-SILVER BOW GROWTH POLICY AND APPROVING CHANGES TO THE LAND USE MAP OF THE 1987 BUTTE-SILVER BOW GROWTH POLICY; INCORPORATING, BY REFERENCE, THE TEXT OF THE AMENDMENTS AND THE CHANGES TO THE MAP AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a**

**roll call vote of 12 yeas and 0 nays to place Council Resolution No. 08-96 on final reading and passed having been deemed fully read at length.**

**SECTION VI                    ORDINANCES AND RESOLUTIONS –  
   SUSPENSION OF THE RULES**

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to suspend the rules for the purpose of passing Council Resolutions 08-97, 98 and 99 by waiving subsection 7 of the of Rule XXXVI, of the Rules and Order of Business of the Council of Commissioners, thereby having them considered for advanced passage without reference to the Judiciary Committee.**

**1.                                COUNCIL RESOLUTION NO. 08-97**

**A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE MONTANA DEPARTMENT OF COMMERCE TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND FOR THE PURPOSE OF A BIG SKY ECONOMIC DEVELOPMENT TRUST FUND        GRANT TO BE USED FOR THE COMPLETION OF THE MERDI DATA CENTER. It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 08-97 on final reading and passed having been deemed fully read at length.**

**EMERGENCIES**

**2.                                COUNCIL RESOLUTION NO. 08-99**

**A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-406, MCA APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW GENERAL FUND FROM THE MONTANA SUPREME COURT FOR THE PURPOSE OF ENHANCING LOCAL DISTRICT COURTROOM SAFETY AND SECURITY TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 08-89 be placed on final reading and passed having been deemed fully read at length.**

**3. COUNCIL RESOLUTION NO. 08-98**

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW CLERK AND RECORDER'S OFFICE, ELECTIONS BUDGET, FROM THE MONTANA SECRETARY OF STATE FOR ADA IMPROVEMENTS TO THE DIVIDE GRANGE HALL POLLING PLACE TO BE EXPENDED IN THE GENERAL FUND AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 08-98 on final reading and passed having been deemed fully read at length.**

**ADJOURN**

**There being no further business to come before the council, it was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.**

The meeting adjourned at 8:30 PM.

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CHIEF EXECUTIVE

ATTEST:

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CLERK AND RECORDER